



महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष ३, अंक ५५]

बुधवार, जुलै १९, २०१७/आषाढ २८, शके १९३९

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असाधारण क्रमांक १०५

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Village Panchayats (Amendment) Ordinance, 2017 (Mah. Ord. XVI of 2017), is hereby published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

N. J. JAMADAR,

Principal Secretary and R. L. A. to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Village Panchayats (Amendment) Ordinance, 2017 (Mah. Ord. XVI of 2017), published under the authority of the Governor).

RURAL DEVELOPMENT AND WATER CONSERVATION DEPARTMENT

Bandhkam Bhavan, 25, Marzban Path,
Fort, Mumbai 400 001, dated the 19th July 2017.

MAHARASHTRA ORDINANCE No. XVI OF 2017.

AN ORDINANCE

further to amend the Maharashtra Village Panchayats Act.

WHEREAS, both Houses of the State Legislature are not in session ;

AND WHEREAS, the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act, for the purposes hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

1. (1) This Ordinance may be called the Maharashtra Village Panchayats (Amendment) Ordinance, 2017.

Short title and
commencement.

(2) It shall come into force at once.

- Amendment of section 2 of III of 1959. 2. In section 3 of the Maharashtra Village Panchayats Act (hereinafter referred to as "the principal Act"),—
- (a) after clause (11AA) the following clause shall be inserted, namely :—
- "(11 AAA) "member" means a member duly elected as a member of *panchayat* under section 11 and include the directly elected *Sarpanch* of *panchayat* under section 30A-1A ; " ;
- (b) in clause (17) after the word and figures "section 30" the figures, letters and sign "30A- 1A" shall be inserted.
- Amendment of section 7 of III of 1959. 3. In section 7 of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely :—
- "(3A) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, unless otherwise provided in this Act, all meetings of the *Gram Sabha* after each general election to a *panchayat*, shall be presided over by the *Sarpanch* and in his absence by the *Upa-Sarpanch*; and in absence of both *Sarpanch* and *Upa-sarpanch*, it shall be presided over by senior most member of *panchayat* by age present in that meeting of the *Gram Sabha*. In case no member of *panchayat* is present, it shall be presided over by a person elected by the persons present in that meeting of *Gram Sabha* . " .
- Amendment of section 10 of III of 1959. 4. In section 10 of the principal Act, after sub-section (1), following sub-section shall be inserted, namely :—
- "(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the modifications that—
- in sub-section (1), in clause (a), before sub-clause (i) the following sub-clause shall be inserted, namely :—
- "(i-A) *Sarpanch* elected under section 30 A-1A- *ex-officio* member ; " .
- Amendment of section 13 of III of 1959. 5. In section 13 of the principal Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely :—
- "(1) Every person whose name is in the list of voters shall, unless disqualified under this Act, or any other law for the time being in force, be qualified to vote at the election of, a member for the ward to which such list pertains and, *Sarpanch* of *panchayat* to be elected directly.
- (2) Every person whose name is in the list of voters and who is not less than 21 years of age on the last date fixed for making nomination for every general election or bye- election shall, unless disqualified under this Act or under any other law for the time being in force, be qualified to be elected for any ward of the village and for *Sarpanch* of *panchayat*. No person whose name is not entered in the list of voters for such village shall be qualified to be elected for any ward of the village and *Sarpanch* of *panchayat*.
- (2A) Every person who is not less than 21 years of age on the last date fixed for making nomination for every general election or bye-election and whose name is in the list of voters and who is born on or after 1st January 1995, and who is not disqualified under this Act or under any other law for the time being in force, shall, unless possesses minimum 7th standard of school education passing certificate or acquired educational qualification equivalent to 7th standard, as certified by the competent authority, be qualified to be elected as *Sarpanch* . " .

6. In section 14 of the principal Act, in sub-section (1),—
 (i) in clause (a), in sub-clause (ii), for the words “five years” the words “six years” shall be substituted;
 (ii) in clause (d) for the words “five years” the words “six years” shall be substituted.”. Amendment of section 14 of III of 1959.
 7. In section 15 of the principal Act, in sub-section (2), after the word and figure “section 11” the words, figures, letters and sign “or section 30A-1A, as the case may be” shall be added. Amendment of section 15 of III of 1959.
 8. In section 16 of the principal Act, in sub-section (2), for the words “State Government” where they occur at both the places, the word “Commissioner” shall be substituted. Amendment of section 16 of III of 1959.
 9. In section 29 of the principal Act, in sub-section (2), for the words “forward it to the Secretary” the words “forward it within seven days to the Secretary” shall be substituted. Amendment of section 29 of III of 1959.
 10. In section 30 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—
 “(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the modifications :—
 (a) for sub-section (1), the following sub-section shall be substituted, namely :—
 “(1) Every *panchayat* shall be presided over by a *Sarpanch*”;
 (b) sub-section (2) shall be deleted ;
 (c) in sub-section (4) for the words “the members belonging to” the words “persons belonging to” shall be substituted. ”. Amendment of section 30 of III of 1959.
 11. After section 30, the following section shall be inserted, namely :— Insertion of section 30A-1A in III of 1959.
- Mah. Ord. XVI of 2017. **“30A-1A.** (1) After the date of commencement of the Maharashtra Village Panchayats (Amendment) Ordinance, 2017 in respect of the *panchayat* to which the general election is to be held, subject to provisions of sub-sections (4), (5) and (6) of section 30, every *panchayat* shall have a *Sarpanch* who shall be elected by the persons whose names are included in the list of voters for village under section 12. Direct election of *Sarpanch*.
- (2) Election of the *Sarpanch* shall be held simultaneously with the general elections of the *panchayat* and the procedure regarding holding of elections to the *panchayat* shall, *mutatis mutandis*, apply to such election.
- (3) If at an election, no *Sarpanch* is elected, a fresh election shall be held to elect a *Sarpanch*, and if there is a failure to elect a *Sarpanch* at the fresh election, such vacancy may, notwithstanding anything contained in this Act, be filled by election by the elected members from amongst themselves and the term of *Sarpanch* elected under this sub-section shall be co-terminus with the term of members of the *panchayat*.
- (4) Any person elected under sub-section (3) shall be deemed to be duly elected at an election under this section.
- (5) If, in the election of the *Sarpanch*, there is an equality of votes, the result of the election shall be decided by lots to be drawn by the State Election Commissioner or the officer appointed by him for the purpose.

(6) In case of a dispute regarding election of the *Sarpanch*, the provisions of section 15 shall, *mutatis mutandis*, apply.”.

Amendment of
section 30A of
III of 1959.

12. In section 30A of the principal Act,—

(a) after sub-section (1) the following sub-section shall be inserted, namely :—

“(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected, the election of the *Upa-Sarpanch* shall be held in the first meeting held after every general election.”;

(b) after sub-section (2), the following sub-section shall be added, namely :—

“(2A) In respect of the *panchayat* to which the *Sarpanch* is directly elected, the provisions of sub-section (3) of section 30 shall *mutatis mutandis* apply in the case of *Upa-Sarpanch*.

Amendment of
section 33 of
III of 1959.

13. In section 33 of the principal Act,—

after sub-section (5), the following sub-section shall be inserted, namely :—

“(6) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the following modifications :—

(a) in sub-section (1), for the words “election of *Sarpanch* and *Upa-Sarpanch*” where they occurs at both the places, the words “election of *Upa-Sarpanch*” shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) The election of the *Sarpanch* shall be held in accordance with the provisions of section 30A-1A of this Act.”;

(c) in sub-section (2), after the words “presided over by” the words “the *Sarpanch* and if the post of *Sarpanch* is vacant by” shall be inserted;

(d) in sub-section (3), the words “*Sarpanch* and” shall be deleted;

(e) for sub-section (4), the following sub-section shall be substituted,—

“(4) If, in the election of *Upa-Sarpanch* there is an equality of votes, the *Sarpanch* shall have right to exercise casting vote, and if the post of *Sarpanch* is vacant, the result of elections shall be decided by lot drawn in the presence of the officer presiding in such manner as he may determine.”.

(e) in sub-section (5),—

(i) the words “*Sarpanch* or” shall be deleted;

(ii) after the word, brackets and figure “sub-section (1)” the words “*Sarpanch* or” shall be inserted.”.

Amendment
of section 35
of III of 1959.

14. In section 35 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

“(1A) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A- 1A, the provisions of this section shall apply with the following modifications:—

(a) in sub-section (1), for the words “one-third” the words “two-third” shall be substituted;

(b) in sub-section (3),—

for the portion beginning with the words “If the motion” and ending with the words “against the *Sarpanch*,” following portion shall be substituted, namely :—

“ If the motion of no confidence is carried by a majority of not less than three-fourth of the total number of the members who are for the

time being entitled to sit and vote at any meeting of the *panchayat*, the *Sarpanch* or the *Upa- Sarpanch*, as the case may be, and ratified before the special *Gram Sabha* by the secret ballot in the presence and under the Chairmanship of the Officer appointed for the purpose by the Collector, shall forthwith stop, exercising all the powers and, performing all the functions and duties of the office and thereupon such powers, functions and duties shall vest in the *Upa-Sarpanch*, in case the motion is carried out against the *Sarpanch* ;”;

(c) for the fourth proviso, the following provisos shall be substituted, namely :—

“Provided also that, no such motion of no-confidence shall be brought within a period of two years from the date of election of *Sarpanch* or *Upa-Sarpanch* and before the six months preceding the date on which the term of *panchayat* expires :

Provided also that, if the no-confidence motion fails, then no motion shall be brought before the passage of time of next two years .”.

15. In section 38 of the principal Act, in sub-section (2), after clause (i) the following clause shall be inserted, namely :—

Amendment of section 38 of III of 1959.

“(i-a) in respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the *Sarpanch* shall also exercise following powers, functions and duties,—

“(a) finalise the agenda of *panchayat* meetings :

Provided that, if three or more members demands regarding inclusion of any item on agenda for immediate next meeting, the *Sarpanch* shall include the same in next meeting :

Provided further that, no *ad-hoc* financial business shall be transacted unless it forms a part of the circulated agenda :

Provided also that, if the *panchayat* resolves on any subject that is detrimental to the well-being of the village at large in the opinion of *Sarpanch*, the *Sarpanch* shall cause the resolution to be kept for final decision immediately in the next following *Gram Sabha*, and decision of the said *Gram Sabha* shall be final ;

(b) prepare the annual budget of *panchayat* ;

(c) exercise all other powers to implement the schemes in consultation with *panchayat* ; ”.

16. In section 39 of the principal Act, in sub-section (2), for the words “five years” the words “six years” shall be substituted.

Amendment of section 39 of III of 1959.

17. In section 43 of the principal Act, in sub-section (1), after existing proviso the following proviso shall be added, namely :—

Amendment of section 43 of III of 1959.

“Provided further that, the post of the directly elected *Sarpanch* fallen vacant under this sub-section shall be filled in by election in the manner laid down in section 30A-1A, within six months from the date of such vacancy.”.

18. In section 49 of the principal Act, in sub-section (4), in proviso,—

Amendment of section 49 of III of 1959.

(i) before clause (a), the following clause shall be inserted, namely :—

“(a1) the *Sarpanch* shall be the *ex-officio* Chairman ; ” ;

(ii) after clause (f), the following clause shall be inserted, namely :—

“(g) *Gramsevak* shall be *ex-officio* Member- Secretary . ” . ” .

Amendment
of section 62
of III of 1959.

19. In section 62 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely :—

“(1AA) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, the provisions of this section shall apply with the following modifications :—

(a) for sub-sections (1) and (1A), the following sub-sections shall be substituted, namely,—

“(1) A *Sarpanch* shall determine annually on or before 5th January of every year in such form as may be prescribed, a statement of,—

(a) the opening balance in the fund and estimated income of the *panchayat* for the following financial year ;

(b) the expenditure proposed on establishment and discharge of its duties under section 45 ;

(c) the amount to be contributed to the District Village Development Fund established under section 133 ;

(d) the Statement made under clause (a), (b) or (c), as the case may be, shall be placed by the *Sarpanch*, before the *panchayat* ;

(e) the *panchayat* shall in respect of the said statement, finalise its recommendations on or before the 31st of January ;

(f) the statement along with the recommendation of the *panchayat* under clause (e), shall be placed before the *Gram Sabha*, which may ratify it on or before 28th of February ;

(g) after the decision of the *Gram Sabha* under clause (f), the said statement shall be submitted to the *Panchayat Samiti*.

“(1-A) If, on or before the date specified in sub-section (1),—

(a) the *Sarpanch* fails to submit the statement ; or

(b) the *panchayat* fails to make recommendation in respect of the Statement ; or

(c) the *Gram Sabha* fails to take decision in respect of ratification of the recommendations,—

The Secretary shall prepare the statement, regarding the mandatory and office expenditure to be carried out and submit it to the *Panchayat Samiti* in the form prescribed under the said sub-section.”;

(b) in sub-section (2), for the portion beginning with words “ The *Panchayat Samiti* ” and ending with words “ increased or decreased: ” the portion “ The *Panchayat Samiti* shall, either approve the statement or direct that the proposed expenditure on any of the duties falling under section 45 shall be increased or decreased on or before 31st March of the every year. Expenditure shall be carried out as per this statement till the date budgetary process outlined in sub-section (1) of this section is completed:” shall be substituted.”;

(c) in second proviso of sub-section (2), after the words “ be increased or decreased ” the words and figure “ on or before 31st March of every year and in case of revised and supplementary statement ” shall be inserted.

20. Section 62A of the principal Act, shall be re-numbered as sub-section (1) of that section and after sub-section (1) as so re-numbered the following sub-section shall be added, namely :—

Amendment of section 62A of III of 1959.

“(2) In respect of the *panchayat* to which the *Sarpanch* is directly elected under section 30A-1A, a *Sarpanch* may at anytime during the financial year for which any such statement has been approved as aforesaid cause a revised or supplementary statement to be prepared. Every such revised or supplementary statement shall be considered and approved by the *Panchayat Samiti* in the same manner as if it were an original statement, and the provisions of section 62 shall apply in relation to such revised or supplementary statement.

21. In section 145 of the principal Act, sub-section (1 A) shall be deleted.

Amendment of section 145 of III of 1959.

22. (1) If any difficulty arises in giving effect to the provisions of the Maharashtra Village Panchayats Act, as amended by this Ordinance, the State Government may, as the occasion arises, give such directions not inconsistent with provisions of the said Act, as amended by this Ordinance, as may appear it to be necessary or expedient for purpose of removing the difficulty.

III of 1959.

Power to remove difficulty.

(2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.

STATEMENT.

As per the existing provisions of the Maharashtra Village Panchayats Act (III of 1959), the *Sarpanch* is elected from amongst the elected members of the Panchayat for which the candidate contesting the election for the post of *Sarpanch* requires the majority votes amongst them. Existing provisions of the said Act, provides that the motion of no confidence may be moved by not less than one-third of the total number of members. Consequently, the members move such no confidence motion frequently, which affects the efficiency of the *Sarpanch* and cause the disturbances in smooth functioning of *Panchayat*.

2. Therefore, after due deliberation it is considered necessary to adopt a system of direct election for the post of *Sarpanch* of *panchayat* from the public which will give stability in the functioning of the *Panchayat*. It is, therefore considered expedient further to amend provisions of the Maharashtra Village Panchayats Act (III of 1959) Act, suitably, so as to strengthen the post of *Sarpanch* for effective functioning and development of the *panchayat*.

3. The salient features of the proposed amendments are as under :—

(i) It is proposed to provide that the *Sarpanch* shall be elected through the secret ballot by qualified voters of the *panchayat*.

(ii) It is proposed to provide that the *Sarpanch* shall be the Chairman of all the *Gram Sabhas* and Village Development Committees of the *panchayat*.

(iii) It is proposed to provide that the no-confidence motion against the *Sarpanch* if passed by the *panchayat* shall be kept before the *Gram Sabha*, for ratification.

(iv) The responsibility of preparing the budget is proposed to be given to the *Sarpanch*.

(v) The *Sarpanch* so elected will be directly accountable to the public of his village.

4. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Maharashtra Village Panchayats Act (III of 1959), for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,
Dated the 18th July 2017.

CH. VIDYASAGAR RAO.
Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

AASEEM GUPTA.
Secretary to Government.